IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

CRP.No. 892 of 2007

AGAINST THE ORDER DATED 03/12/2005 IN IA.3024 & 3025/2005 IN LAR.223/1998 of ADDL.SUB COURT,KOLLAM

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REVN. PETITIONER: PETITIONER/PETITIONER/CLAIMANT

KOSHY MATHUKUTTY,
IYKARETHU VEEDU, NADUVILE MURI,
PORUVAZHI VILLAGE.

BY ADV. SRI.K.SASIKUMAR

RESPONDENTS: RESPONDENT

STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. SHYSON P.MANGUZHA

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No.892 OF 2007

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Dated this the 23rd day of October 2007

O R D E R

This revision petition is preferred against the order in I.A.Nos.3024 & 3025 of 2005 in L.A.R.No.223/1998. The court below, on account of the absence of the claimants, found that there are no materials and confirmed the award of the Land Acquisition Officer. The petitioner moved an application for review along with a petition to condone the delay. The court found that there are no reasons to condone the delay and that there are no grounds to review the order and hence dismissed both the applications. It is against that order, the revision is preferred.

2. Notice given to the learned Government Pleader also. A perusal of the original award passed by the Addl. Sub Judge would reveal that it was on account of the absence of the claimants, no particulars were furnished and therefore the court was constrained to confirm the award. It is true that reference court has not disposed of the matter for default. But, it is the duty of the court to apply its mind to find out whether compensation has been awarded properly and for the same, the case of the claimants also has to be

looked into. That has not been done in this case due to the absence of the claimants. Further, when a property is acquired and if the claimants are entitled to a reasonable enhancement of compensation, it is desirable that it is determined after hearing all concerned. Therefore, invoking my power under Article 227 of the Constitution of India, I set aside the award passed in this case and direct the court to restore the case L.A.R.No.223/1998 back to file, give an opportunity to both sides to adduce evidence and then dispose of the matter in accordance with law. If the court is of the opinion that claimants' negligence has resulted in the protraction of the proceedings, the court is empowered to deny interest for the period from the date of first disposal till restoration.

Parties are directed to appear before the court below on 30.11.2007.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-